

ARGUMENTS

Rejection of Claims on Art Grounds in the 08/11/2003 Office Action, and Traversal Thereof

In the 11 August 2002 Office Action, Claims 1 – 18 were rejected under 35 U.S.C. 112 for failing to point out and distinctly claim the subject matter of the invention. These 112 rejections have been fully addressed with the amendments to the claims, to more particularly and clearly point out and claim the invention.

In addition, the following claims have been rejected on prior art grounds, as follows:

Under 35 U.S.C 102 (b), Claims 1-2,6,9-11, and 17-19 are rejected under as being anticipated by Campbell.

Under 35 U.S.C. 103(a) Claims 3-5, 7-8, 12-16 are rejected as being unpatentable over Campbell in view of Helmer.

The above rejections of the claims 1-19 on the stated art grounds are traversed, and consideration of the patentability of the claims 1- 19, now amended, is requested, in light of the following remarks.

As set forth in the background section of the specification of the present invention, Campbell teaches away from the present invention and/or has shortcomings or problems that are solved by the present invention as claimed. More specifically, Campbell teaches and discloses a band having a pouch that is secured directly to the body such that the tube is inserted into the pouch from holes in the band side that directly contacts the patient skin, which directly contrasts and teaches away from the present invention as

claimed, which expressly teaches a band having a pocket positioned with an opening away from the patient's skin.

Campbell further teaches away from the combination with other references such as the Helmer reference cited by the examiner with this pouch having holes directly contacting the patient skin, since Helmer teaches the use of a protective shield (20); any slippage of the Campbell-type of belt-pouch will directly move the tube with respect to the body opening or stoma, causing irritation and discomfort and potentially dislodging the tube. In fact, in this invention, it is taught that the fasteners of the pouch are intended to secure the tube to the pouch in order to reduce the possibility of the tube sliding into the patient's body. This feature will promote tube movement when the patient moves with respect to the belt device, or vice versa. Thus, Campbell clearly teaches away from the present invention protective pocket, which promotes some tube movement within the pocket and which provides for the pocket opening to be located and positioned away from the patient's body/skin.

Additionally, Helmer requires the use of a protective shield (20), which obviates the application of breathable fabric as in the present invention. Any protective shield would necessarily serve as a barrier between the patient and the convertible receptacle of Helmer; thus if the receptacle of Helmer were breathable, it would not functionally be breathable when combined with this protective shield.

Furthermore, the ties of Helmer could not possibly be combined with the invention of Campbell, since the rectangular band of Campbell necessarily is constructed and configured to provide for connection via overlapping hood and loop fasteners, namely mating fasteners (see col. 5 lines 30-45) to provide a solid band for securement

directly onto the midsection of a patient. Ties were known at the time of Campbell and were expressly not included, since tying the ends would prevent the formation of the pouch section and would further introduce problems of belt movement or slippage that would certainly disrupt or dislodge the tubes and irritate the stoma, thereby rendering the belt of Campbell non-functional were ties added.

Still further, the protective shield of Helmer teaches away from the combination of that invention with the one of Campbell inasmuch as the shield would prevent and block the insertion of the tube via holes in the belt of Campbell, thus rendering the belt of Campbell non-functional, since there would be no possibility of inserting the tubes if the protective shield of Helmer were used.

The applicant respectfully asserts that the examiner has combined the references in hindsight based upon the claims of the present invention, which is improper. It is not reasonably possible to consider the combination of two references where significant or key elements of one invention would render the other invention non-functional.

Claims 1-19, now amended, are asserted to be in patentable condition. Allowance of these claims is hereby respectfully requested. In the event that the Examiner finds additional minor modifications that would place these claims in allowable condition, the Examiner is respectfully requested to make telephonic contact with the Attorney of Record to discuss and make changes via Examiner's Amendment to place the claims in condition for allowance.

The above rejections of the claims 1-19 on the stated art and utility grounds are traversed, and consideration of the patentability of the claims 1-19 is requested, in light of the foregoing remarks. Favorable action is therefore requested.

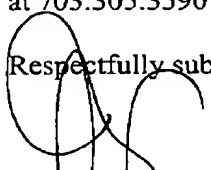
CONCLUSION

In view of the foregoing, claims 1-19 constituting the claims pending in the application, are submitted to be fully patentably and in allowable condition to address and overcome the rejections.

If any issues remain outstanding, incident to the allowance of the application, Examiner Brown is respectfully requested to contact the undersigned attorney at (919)-664-8222 or via email at jingang@trianglepatents.com to discuss the resolution of such issues, in order that prosecution of the application may be concluded favorably to the applicant, consistent with the applicant's making of a substantial advance in the art and particularly pointing out and distinctly claiming the subject matter that the applicant regards as the invention.

This Office Action response is submitted via fax to the official group fax number at 703.305.3590 on Monday, January 12, 2004.

Respectfully submitted,


JiNan Glasgow #42585
Glasgow Law Firm, PLLC
PO Box 28539
Raleigh, NC 27611-8539
919-664-8222
919-664-8625 (fax)